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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,139	12/15/2003	Jonathan Haswell	ARC920030095US1	6349
55508 7590 04/03/2007 JOSEPH P. CURTIN, L.L.C. 1469 N.W. MORGAN LANE PORTLAND, OR 97229-5291			EXAMINER LANIER, BENJAMIN E	
			ART UNIT 2132	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 04/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/737,139		HASWELL, JONATHAN	
	Examiner		Art Unit	
	Benjamin E. Lanier		2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is/ in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 6, 8-10, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Velez-McCaskey, U.S. Patent No. 6,098,128. Referring to claim 1, Velez-McCaskey discloses a storage management system that automatically selects an appropriate RAID level for storage of files based on block size (Col. 10, lines 6-19), which meets the limitation of a policy manager containing at least one rule relating to block-level storage for a RAID level of protection for a file stored on the plurality of storage units, the RAID level of protection being selected from a plurality of RAID levels of protection. The storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), which meets the limitation of at least one rule contained within the policy manager being based on an access pattern of files stored on the plurality of storage units, an access manager providing the policy manager with information relating to access patterns of files stored on the plurality of storage units.

Referring to claims 2, 3, Velez-McCaskey discloses that the RAID level for storage of each file is based on the file size (Col. 10, lines 14-15), which meets the limitation of the selected RAID level of protection is selected further based on size of the file, and on contents of the file.

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Referring to claims 5, 6, Velez-McCaskey discloses that large files might be assigned to RAID-3, while small files would be assigned to RAID-5 (Col. 10, lines 15-18), which meets the limitation of at least two files are stored on the plurality of storage units having different RAID levels of protection, at least two files stored on a same storage unit have different RAID levels of protection.

Referring to claim 8, Velez-McCaskey discloses that the storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), which meets the limitation of the information related to access patterns of files is used for write coalescing data for storage on the plurality of storage units.

Referring to claim 9, Velez-McCaskey discloses a storage management system that automatically selects an appropriate RAID level for storage of files based on block size (Col. 10, lines 6-19), which meets the limitation of a RAID manager responsive to a rule contained in the policy manager by implementing the selected RAID level of protection for a file.

Referring to claim 10, Velez-McCaskey discloses the storage management system isolates regular backups from user intervention, thereby addressing problems associated with forgetful or recalcitrant employees who fail to execute backups regularly (Col. 2, lines 50-53), which meets the limitation of a RAID engine responding to the RAID manager by generating RAID redundancy type information for the file.

Referring to claim 12, Velez-McCaskey discloses that the storage devices could be hard drives (Col. 11, lines 41-42).

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Referring to claim 13, Velez-McCaskey discloses that the storage devices could be SRAM (Col. 10, lines 51-57), which meets the limitation of at least one storage unit is a random access memory device.

Referring to claim 14, Velez-McCaskey discloses that the storage devices could be a CD-ROM drive (Col. 11, lines 41-42), which meets the limitation of at least one storage unit is an optical drive.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 4, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Velez-McCaskey, U.S. Patent No. 6,098,128, in view of Bright, U.S. Patent No. 7,085,819. Referring to claim 4, Velez-McCaskey discloses that the RAID level for storage of each file is based on the file size (Col. 10, lines 14-15), but does not mention file name or location. Bright discloses that the RAID level is determined based on file name and directory information (Col. 14, lines 45-

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67), which meets the limitation of the selected RAID level of protection is selected further based on the name of the file and a location of the file in a name space of the filing system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine the RAID level in the storage management system of Velez-McCaskey based on the file name and directory information in order to determine the RAID level based on how critical the data is as taught by Bright (Col. 15, lines 18-23).

Referring to claim 11, Velez-McCaskey does not mention storage capacity. Bright discloses that storage is selected based on capacity (Col. 14, lines 45-53), which meets the limitation of a spacer manager containing availability information for each storage block on the plurality of storage units. It would have been obvious to one of ordinary skill in the art at the time the invention was made to maintain capacity information about the storage units in Velez-McCaskey so that storage can be determined based on the amount of storage space is available for each storage unit as taught by Bright (Col. 14, lines 45-53).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Velez-McCaskey, U.S. Patent No. 6,098,128, in view of Gotoh, U.S. Patent No. 6,223,300. Referring to claim 7, Velez-McCaskey discloses that the storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), but does not mention determining the stripe size based on the file accesses. Gotoh discloses a disc array apparatus wherein the stripe size is determined based on file access information (Col. 5, lines 31-36), which meets the limitation of the information relating to access patterns of files is used for determining at least one RAID stripe size. It would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the stripe size, in Velez-

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McCaskey, based on the file access information, as described in Gotoh, in order to optimize the parameters set for access to the configured disks as taught in Gotoh (Col. 1, lines 43-54).

7. Claims 15-20, 22, 24-26, 28-36, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Velez-McCaskey, U.S. Patent No. 6,098,128, in view of Frey, U.S. Patent No. 6,742,137. Referring to claims 15, 26, 31, Velez-McCaskey discloses a storage management system wherein users can create and edit stored files within the storage systems (Col. 11, lines 38-41), which meets the limitation of receiving a request at a filing system to create a file on the plurality of storage units, determining at a filing system that a file stored on the plurality of storage units should be updated. The storage management system automatically selects an appropriate RAID level for storage of files based on block size (Col. 10, lines 6-19), which meets the limitation of querying a policy manager for at least one rule relating to block-level storage for a RAID level of protection for the file created on the plurality of storage units, the RAID level of protection being selected from a plurality of RAID levels of protection, writing the file to the plurality of storage units based on the RAID level of protection selected for the file. The storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), which meets the limitation of at least one rule contained within the policy manager being based on an access pattern of files stored on the plurality of storage units. Velez-McCaskey does not disclose maintaining the RAID information in metadata. Frey discloses a fault tolerance system wherein metadata for each objects is maintained as a part of the object index (Col. 4, lines 6-7). The metadata describes storage locations for portions of the data object and includes fault tolerance information regarding a RAID level and storage information for the fault tolerance information (Col. 4, lines 8-21),

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which meets the limitation of maintaining metadata relating to a location of RAID information for the file within the filing system metadata information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the RAID information in metadata in order to provide a fault tolerance technique that is flexible and allows for different fault tolerant techniques to be applied to different data objects on a single storage volume as taught by Frey (Col. 2, lines 47-58).

Referring to claims 16, 34, Velez-McCaskey discloses that the storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), which meets the limitation of providing the policy manager with information relating to access patterns of files stored on the plurality of storage units.

Referring to claims 17, 18, 35, 36, Velez-McCaskey discloses that the RAID level for storage of each file is based on the file size (Col. 10, lines 14-15), which meets the limitation of the selected RAID level of protection is selected further based on size of the file, and on contents of the file.

Referring to claims 19, 20, Velez-McCaskey discloses that large files might be assigned to RAID-3, while small files would be assigned to RAID-5 (Col. 10, lines 15-18), which meets the limitation of at least two files are stored on the plurality of storage units having different RAID levels of protection, at least two files stored on a same storage unit have different RAID levels of protection.

Referring to claim 22, Velez-McCaskey discloses that the storage management system automatically relocates files within the system based upon frequency at which each file is



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accessed (Col. 11, lines 44-48), which meets the limitation of writing coalescing data for storage on the plurality of storage units based on the information relating to access patterns of files.

Referring to claim 24, Velez-McCaskey discloses a storage management system that automatically selects an appropriate RAID level for storage of files based on block size (Col. 10, lines 6-19), which meets the limitation of implementing the selected RAID level of protection for a file based on a rule contained in the policy manager.

Referring to claim 25, Velez-McCaskey discloses the storage management system isolates regular backups from user intervention, thereby addressing problems associated with forgetful or recalcitrant employees who fail to execute backups regularly (Col. 2, lines 50-53), which meets the limitation of generating RAID redundancy type information for the file.

Referring to claims 28, 38, Velez-McCaskey discloses that the storage devices could be hard drives (Col. 11, lines 41-42).

Referring to claims 29, 39, Velez-McCaskey discloses that the storage devices could be SRAM (Col. 10, lines 51-57), which meets the limitation of at least one storage unit is a random access memory device.

Referring to claims 30, 40, Velez-McCaskey discloses that the storage devices could be a CD-ROM drive (Col. 11, lines 41-42), which meets the limitation of at least one storage unit is an optical drive.

Referring to claim 32, Velez-McCaskey discloses a storage management system wherein users can create and edit stored files within the storage systems (Col. 11, lines 38-41), which meets the limitation of writing the file writes the file at the same place on the plurality of storage

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units that the file was located before the writing based on the selected RAID level of protection because no relocation is described as being involved with the editing process.

Referring to claim 33, Velez-McCaskey discloses that files can be relocated within the system (Col. 11, lines 42-51), which meets the limitation of writing the files writes the file at a different location on the plurality of storage units based on the selected RAID level of protection.

8. Claims 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Velez-McCaskey, U.S. Patent No. 6,098,128, in view of Frey, U.S. Patent No. 6,742,137 as applied to claim 15 above, and further in view of Gotoh, U.S. Patent No. 6,223,300. Referring to claims 21, 23, Velez-McCaskey discloses that the storage management system automatically relocates files within the system based upon frequency at which each file is accessed (Col. 11, lines 44-48), but does not mention determining the stripe size based on the file accesses. Gotoh discloses a disc array apparatus wherein the stripe size is determined based on file access information (Col. 5, lines 31-36), which meets the limitation of the information relating to access patterns of files is used for determining at least one RAID stripe size. It would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the stripe size, in Velez-McCaskey, based on the file access information, as described in Gotoh, in order to optimize the parameters set for access to the configured disks as taught in Gotoh (Col. 1, lines 43-54).

9. Claims 27, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Velez-McCaskey, U.S. Patent No. 6,098,128, in view of Frey, U.S. Patent No. 6,742,137 as applied to claims 15, 31 above, and further in view of Bright, U.S. Patent No. 7,085,819. Referring to claim 27, Velez-McCaskey does not mention storage capacity. Bright discloses that storage is selected based on capacity (Col. 14, lines 45-53), which meets the limitation of a spacer manager

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containing availability information for each storage block on the plurality of storage units. It would have been obvious to one of ordinary skill in the art at the time the invention was made to maintain capacity information about the storage units in Velez-McCaskey so that storage can be determined based on the amount of storage space is available for each storage unit as taught by Bright (Col. 14, lines 45-53).

Referring to claim 37, Velez-McCaskey discloses that the RAID level for storage of each file is based on the file size (Col. 10, lines 14-15), but does not mention file name or location. Bright discloses that the RAID level is determined based on file name and directory information (Col. 14, lines 45-67), which meets the limitation of the selected RAID level of protection is selected further based on the name of the file and a location of the file in a name space of the filing system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine the RAID level in the storage management system of Velez-McCaskey based on the file name and directory information in order to determine the RAID level based on how critical the data is as taught by Bright (Col. 15, lines 18-23).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harris, U.S. Publication No. 2001/0047482

Zimmer, U.S. Publication No. 2004/0158711

Yamamoto, U.S. Publication No. 2002/0152339

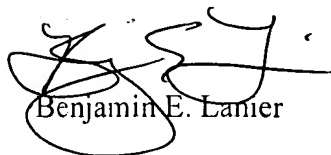
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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805.

The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Benjamin E. Lanier